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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,455	02/07/2001	Koenraad Reybrouck	1316N001654	3409
7590	02/14/2005		EXAMINER	
Harness, Dickey & Pierce, P.L.C. P.O. Box 828 Bloomfield Hills, MI 48303			SY, MARIANO ONG	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>V</i> <b>Office Action Summary</b>	Application No.	Applicant(s)
	09/778,455	REYBROUCK ET AL.
	Examiner Mariano Sy	Art Unit 3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 January 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,6-8 and 28-30 is/are pending in the application.
  - 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,6,7 and 28-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

1. The amendment filed on January 13, 2005 has been received.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fister et al. (US 4,518,058) in view of Handke et al. (US 4,328,960).

Re-claims 1 and 28 Fister et al. disclosed, as shown in fig. 3-4, a damper comprising: a pressure tube 15; a rode guide assembly 25,26; an end cap 16; a sealed working chamber x; said working chamber being completely filled with hydraulic fluid; a

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solid piston rod 20; a piston 30; said piston divide a first portion of said working chamber into an upper and a lower working chamber completely filled with hydraulic fluid; a first flow path 31 extending through said piston to accommodate flow of hydraulic fluid between upper and lower working chamber; a valve body 33,34 disposed within said working chamber to define with said end cap and with the inner cylinder surface of the pressure tube a fluid chamber 39 located in a second portion of said working chamber; said fluid chamber being completely filled with hydraulic fluid, said valve body being independent from said solid piston rod and fixedly secured to said inner cylindrical surface of said pressure tube; and a second flow path 37,38 extending through said valve body to accommodate flow of hydraulic fluid between said lower working chamber and said fluid chamber 39, said second flow path being a continuously open flow path; wherein said second flow path is a tunable restriction.

However Fister et al. failed to disclose said sealed working chamber and said fluid chamber being completely filled with pressurized gas.

Handke et al. teaches a damper comprising working chambers can be provided with pneumatic damping instead of hydraulic damping, see col. 7, lines 3-5.

It would have been obvious to one of ordinary skill in the art to have modify the damper of Fister et al. completely filled with air or gas instead of hydraulic fluid, in view of the teaching of Handke et al., is a matter of design choice depending upon type of application and cost.

5. Claims 6, 7, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fister et al. in view of Handke et al. as applied to claim 1 above, and further in view of E. Tuneblom (US 3,339,680).

Re-claims 6, 7, 29, and 30 Fister et al. as modified failed to disclose a compression valve assembly and an extension valve assembly attached to the piston.

E. Tuneblom teaches, as shown in the figure, a compression valve assembly and an extension valve assembly attached to a piston 2 and flow paths 9, 10 with tunable restriction.

It would have been obvious to one of ordinary skill in the art to have modify the piston of Fister et al. as modified with a compression valve assembly and an extension valve assembly attached to the piston and flow paths with tunable restriction.

6. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
M. Sy  
February 8, 2005

  
2/10/2005  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310